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RATIONALIZATION OF THE WORK OF THE COMMISSION

Written statement submitted by Human Rights Advocates, Inc.,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement,
which is circulated in accordance with Economic and Social Council
resolution 1996/31.

[18 February 1999]

Enhancing the effectiveness of the mechanisms of the Commission on Human Rights: Sub-Commission on Prevention of Discrimination and Protection of Minorities

1. Human Rights Advocates (HRA) respectfully submits this response to the Bureau's observations contained in section IV of the report of the Bureau to the fifty-fourth session of the Commission on Human Rights, submitted pursuant to Commission decision 1998/112 (E/CN.4/1999/104).

2. HRA expresses grave concern that aspects of the proposal will severely undermine the work of one of the few independent human rights bodies within the United Nations. Of particular significance are: (a) decreasing the meeting times by half; (b) reducing the number of members; (c) reserving control of the agenda with the Commission; and (d) summarizing discussions in only analytical reports.

3. While the Bureau requested the Secretariat to afford "all interested parties ample opportunity to advance, and exchange views on, suggestions for enhancing the Commission's mechanisms" by inviting interested parties to submit written proposals (para. 2), final review was based upon the written observations of only 16 non-governmental organizations (NGOs) (see para. 4). HRA requests that other means be considered for ensuring participation of a broader group of NGOs.

Proposed changes: observations

4. HRA agrees that the Sub-Commission plays a significant role in "[enhancing] the capacity of the United Nations to promote and protect internationally recognized human rights and contribute to the prevention of their violation" (Executive Summary, second paragraph). Not only is the Sub-Commission a body that helps to set policies and standards for the work of the United Nations human rights programme, but it prepared drafts for several significant instruments and can continue to do so.

5. The Sub-Commission is a tremendous resource and contributes to the development of the Commission's thematic mechanisms, most notably as a unique body of independent experts. The accessibility and approachability of experts provide an essential arena for concerned groups to bring notice to many significant issues requiring international attention. One example is the establishment of the Working Groups on Minorities and on Indigenous Populations. As evidence of interest, hundreds of human rights activists from numerous countries travel each year to attend the Sub-Commission's sessions.

6. HRA concurs that the Sub-Commission's outmoded title should be replaced by "the Sub-Commission on the Promotion and Protection of Human Rights" (recommendation 12 (a)).

Comments and recommendations

7. Expense. The Sub-Commission is deemed to be the most expensive of all the Commission's subsidiary mechanisms with an annual session cost higher than that of the Commission itself (observation 27). HRA questions this higher cost. The Sub-Commission is currently smaller and convenes for only

four weeks, compared to the Commission and its six-week sessions. The expense of the Sub-Commission requires further re-evaluation. In 1986, although the Sub-Commission session was cancelled, NGOs organized the International Seminar on Human Rights. Seventeen experts attended and essentially held an unofficial session without resources from the Commission and the United Nations.

8. Reduction in the number of members. The proposal is to decrease the number to 15 (recommendation 12 (b) (i)). HRA emphatically recommends preserving the number of experts at or close to 26. The current geographic representation is: seven members from Africa, five from Latin America, five from Asia, three from Eastern Europe and six from Western Europe and other. Reducing the current number of experts to 15 would grossly under-represent the international community, within and outside the geographical territories. How would the Commission's Chair determine which country or geographic area shall not be represented?

9. Annual session length. This is to be cut to two weeks (recommendation 12 (b) (ii)). In view of the need for private deliberations, HRA urges maintaining and restructuring the current four-week session to include limited private deliberations amongst members. In light of "constantly emerging new demands" (para. 10) from the international community, a two-week session would not adequately meet the needs of the number of organizations that require an occasion to provide input. If the Sub-Commission held private discussions, even less time would be available to address all the concerns of all interested parties and the tasks assigned by the Commission. HRA therefore recommends that the Sub-Commission restructure its own procedures to enhance its functionality within the current framework. In this context, the Sub-Commission has shown an ability to take initiatives that would not have been undertaken by larger more political United Nations bodies.

10. Term of office. Four-year terms could be renewed only once and members could not be employed contemporaneously in the executive branch of their country's Government (recommendation 12 (b) (i)). HRA agrees that a ban on members being concurrently employed in a country's executive branch will alleviate the problem of the Sub-Commission's supposedly politicized nature. However, the question arises whether former members fall into the same category.

11. Work and priorities and nomination of members. The Commission should determine the work and priorities (recommendation (12) (c)). The Commission's Chair should nominate each member in consultation with the Bureau (recommendation 12 (b) (i)). These two recommendations do not decrease the presumed politicized character of the Sub-Commission and in fact create a more political Sub-Commission, which raises several questions. By what process shall the Commission's Chair select the members? How does selection by the Chair versus nomination by the respective States and election by the Commission reduce the presumably politicized nature of the Sub-Commission? Placing the burden of nomination on the Bureau and the Chair emphasizes political agendas and opinions because selection would lie in the hands of a smaller number of Commission members. If the concern is to address the politicized character of the experts, the respective States can continue to

nominate in consultation with the Bureau. Second, if the Commission, presumably a more political body, determines all work and priorities, this would render the Sub-Commission an even more political body. While some work and priorities of the Commission would be better addressed in the Sub-Commission, many grievous issues needing attention would be overlooked, especially those presented by concerned parties. If avoidance of duplication is the aim, a system should be developed to address that concern specifically. The 1997 and 1998 Sub-Commission agendas reflected a concerted effort to avoid duplicating the work of the Commission. The implementation of such efforts is thus in its fledgling stage and should be accorded due opportunity to take effect, perhaps to the year 2003 (a total of five years) after which the Bureau's recommendations could be re-evaluated.

12. Analytical summaries. Working methods are to focus on studies, research and expert advice which includes a thorough peer review process, an analytical report with recommendations and a summary of members' observations to be submitted to the Commission, with no negotiated resolutions (recommendation 12 (d)). The annual debate on worldwide human rights violations should be summarized in an analytical report to the Commission rather than through negotiated resolutions (recommendation 12 (e) (i)). These recommendations have possibly grave consequences, sabotaging the most effective work of the Sub-Commission, and therefore raise some significant questions. How will the Sub-Commission be able to propose studies if it may not adopt resolutions? How is the Sub-Commission to summarize comments on countries in summary analytical reports? How will consensus be reached without resolutions? As a body of independent experts, the Sub-Commission's country resolutions have proved effective in keeping States constantly aware of their actions when addressing their human rights violations. For example, Commission members considered ways to address concerns about Belarus but could not reach a consensus. When the Sub-Commission discussed the issue, the Sub-Commission was able to act and further proposals were submitted for consideration to the Commission which possibly made taking action easier. HRA therefore strongly suggests that the Sub-Commission continue to provide negotiated resolutions, perhaps in the analytical report form desired, and include in the report the reasons why particular resolutions were proposed. In any case, the Commission cannot realistically expect the Sub-Commission to prepare an analytical report in a reduced session. The preparation of such a report would actually take as much or more time than resolutions.

13. Deliberations. The Sub-Commission should provide opportunities for NGOs and others to give input into this process and for experts to deliberate privately (recommendation 12 (d)). HRA agrees that members need more time to prepare and discuss draft resolutions/decisions in private sessions, HRA recommends restructuring the annual session to include time for limited private deliberations amongst members. Care should be taken, however, to limit private sessions so that the Sub-Commission continues as an open forum for all interested organizations and bodies.

14. Implementation of changes. A transitional process is to culminate in 2000 at the Sub-Commission's fifty-second session (recommendation 12 (f)). HRA recommends that the transition process extend to the year 2003 to provide enough opportunity to implement current efforts at reform and to give careful consideration to reform measures.

15. 1503 procedure. The procedure established by ECOSOC resolution 1503 (XLVIII) should be restructured (paras. 51-54). HRA commends the proposed preservation and restructuring of the 1503 procedure to enhance better communication. However, special consideration must be given to who will serve as members of the Committee on Situations and how they will be selected to avoid creating a more political body than the present Working Group of the Sub-Commission. HRA therefore recommends that members of the Sub-Commission not be employed by the executive branch of their Governments and that they be appointed by a mechanism having the broadest possible base. HRA recommends to the Commission to publish the names of countries to be referred to it by the Committee on Situations. The prospect of potential publicity will encourage Governments to cooperate with the Committee.

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